

AMENDED IN SENATE JUNE 18, 2014
AMENDED IN ASSEMBLY MAY 23, 2014
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AMENDED IN ASSEMBLY APRIL 8, 2014
AMENDED IN ASSEMBLY MARCH 20, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2452

Introduced by Assembly Member Pan

February 21, 2014

An act to amend Sections 4800, 4801, 4802, and 4806 of, and to add Sections 4801.5 and 4807 to, the Probate Code, relating to advance health care directives.

LEGISLATIVE COUNSEL'S DIGEST

AB 2452, as amended, Pan. Advance health care directive registry.

Existing law directs the Secretary of State to establish an Advance Health Care Directive Registry to receive and release specified information from a person who has executed a written advance health care directive. Existing law requires the Secretary of State to charge a fee to each registrant in an amount such that, when all fees charged to registrants are aggregated, the aggregated fees do not exceed the actual cost of establishing and maintaining the registry. Existing law provides that failure to register with the Secretary of State does not affect the validity of an advance health care directive.

This bill would ~~require, commencing~~ *require the Secretary of State to transfer the contents of its Advance Health Care Directive's Registry*

to the State Department of Public Health on January 1, 2016. The bill would require the department to maintain a health care decision registry, to be referred to as the California Health Care Decisions Online Registry, and commencing on January 1, 2016, ~~the Secretary of State~~ to establish and maintain access, as specified, to a secure portion of the ~~Secretary of State's~~ department's Internet Web site that provides an electronic reproduction of an advance health care directive and other specified documents submitted to the registry system. The bill would require this access to include the ability to view the electronic reproduction on the Internet Web site, as well as download, print, and otherwise retrieve a copy of the electronic reproduction. The bill would, among other things, require the ~~secretary~~ department to establish procedures to register, replace, and remove an advance health care directive, as specified. The bill would require that on or before January 1, 2020, the registry be fully supported by fees charged by the ~~Secretary of State~~ Department of Public Health to each registrant. The bill would require the ~~Secretary of State~~ Department of Public Health to develop and submit to the Legislature a financial sustainability plan, as specified, on or before January 1, 2018.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4800 of the Probate Code is amended to
2 read:
3 4800. (a) (1) ~~The Secretary of State~~ Department of Public
4 Health shall establish a registry system through which a person
5 who has executed a written advance health care ~~directive~~ directive,
6 physician order for life-sustaining treatment form, a durable power
7 of attorney document, or any other legally recognized and executed
8 instrument for conveying a patient's health care intentions, may
9 register in a central information ~~center~~, center information
10 regarding the ~~advance directive~~, health care decision, making that
11 information available *electronically* upon request to any health
12 care provider, the public guardian, ~~or~~ the legal representative of
13 the ~~registrant~~, registrant, or other entity as determined by the State
14 Department of Public Health.
15 (2) Commencing on January 1, 2016, ~~the Secretary of State~~
16 Department of Public Health shall establish and maintain access,

1 as prescribed by this part, to a secure portion of the ~~Secretary of~~
2 ~~State's~~ *State Department of Public Health's* Internet Web site that
3 provides an electronic reproduction of an advance health care
4 directive and other documents described in subdivision (c)
5 submitted to the registry system. This access shall include the
6 ability to view the electronic reproduction on the Internet Web
7 site, as well as download, print, and otherwise retrieve a copy of
8 the electronic reproduction.

9 (3) *The registry shall be referred to as the California Health*
10 *Care Decisions Online Registry or the registry.*

11 (4) *It is the intent of the Legislature that the department contract*
12 *with the Regents of the University of California to develop and*
13 *maintain the registry.*

14 (5) *Funds appropriated to the department for the development*
15 *and maintenance of the registry shall be distributed to the Health*
16 *System, University of California, Davis.*

17 (b) Commencing on January 1, 2016, the ~~Secretary of State~~
18 *Department of Public Health* shall establish a process to register
19 an advance health care directive and submit personal information
20 and documents to the registry either by electronic submission or
21 submission of paper documents. Commencing on January 1, 2016,
22 the ~~Secretary of State~~ *Department of Public Health* shall establish
23 a process to merge documents in the registry prior to January 1,
24 2016, with the access system established in paragraph (2) of
25 subdivision (a). This process shall require a person who registers
26 an advance health care directive or other document described in
27 paragraph (2) to submit to the Secretary of State all of the
28 following:

29 (1) An application in a form prescribed by the ~~Secretary of State~~
30 *Department of Public Health.*

31 (2) A copy or electronic reproduction of any of the following:

32 (A) The registrant's advance health care directive.

33 (B) A values statement, questionnaire, or other document that
34 supplements the advance health care directive.

35 (C) Durable power of attorney form.

36 (D) A physician orders for life-sustaining treatment (POLST)
37 form.

38 (E) The intended place of deposit or safekeeping of a written
39 advance health care directive and any other document described
40 in this paragraph.

1 (F) The name and telephone number of the agent and any
2 alternative agent.

3 (3) Any fee established by the ~~Secretary of State~~ *Department*
4 *of Public Health* pursuant to subdivision (f).

5 (c) Information that may be received shall be limited to all of
6 the following regarding the registrant:

7 (1) Name.

8 (2) Social security number.

9 (3) Driver's license number, or other state-issued individual
10 identifying number established by law, if any.

11 (4) Address.

12 (5) Date and place of birth.

13 (d) When the ~~Secretary of State~~ *Department of Public Health*
14 receives the items described in subdivision (b) from a registrant,
15 the ~~secretary~~ *department* shall do all of the following:

16 (1) Assign a registration number and password to access the
17 registry to the registrant.

18 (2) Issue the registrant an Advance Health Care Directive
19 Registry registration card indicating that an advance health care
20 directive, or information regarding an advance health care directive,
21 has been deposited with the registry. The information on the card
22 shall include, but not be limited to, the registrant's name,
23 registration number, and password to access the registry. Costs
24 associated with issuance of the card shall be offset by the fee
25 charged by the ~~Secretary of State~~ *Department of Public Health* to
26 receive and register information at the registry.

27 (3) Make or transfer an electronic reproduction of the advance
28 health care directive and other documents described in paragraph
29 (2) of subdivision (b) and post it to the registry.

30 (e) The ~~Secretary of State~~ *Department of Public Health*, at the
31 request of the registrant or his or her legal representative, shall
32 transmit the information received regarding the written advance
33 health care directive to the registry system of another jurisdiction
34 as identified by the registrant, or his or her legal representative.

35 (f) The ~~Secretary of State~~ *Department of Public Health* shall
36 charge a fee to each registrant in an amount such that, when all
37 fees charged to registrants are aggregated, the aggregated fees do
38 not exceed the actual cost of establishing and maintaining the
39 registry. On or before January 1, 2020, the registry shall be fully
40 supported by fees charged pursuant to this subdivision.

1 (g) On or before January 1, 2018, the ~~Secretary of~~ State
2 *Department of Public Health* shall develop and submit to the
3 Legislature a financial sustainability plan detailing all of the
4 following:

5 (1) The amount of revenue generated by the fee charged pursuant
6 to subdivision (f).

7 (2) The estimated ongoing costs of maintaining the registry.

8 (3) The number of participants in the registry and the projected
9 participation in future years.

10 (4) A plan for ensuring that the revenue from fees charged
11 pursuant to subdivision (f) fully support the ongoing costs of
12 maintaining the registry.

13 (h) (1) The requirement for submitting a report imposed under
14 subdivision (g) is inoperative on January 1, 2022, pursuant to
15 Section 10231.5 of the Government Code.

16 (2) A report submitted pursuant to subdivision (g) shall be
17 submitted in compliance with Section 9795 of the Government
18 Code.

19 SEC. 2. Section 4801 of the Probate Code is amended to read:

20 4801. (a) Notwithstanding any other law, the ~~Secretary of~~
21 *State Department of Public Health* shall limit access to the registry,
22 including a registrant's advance health care directive, personal
23 information, and other documents received, to when all of the
24 following occur:

25 (1) The assigned registration number and password are provided.

26 (2) Access to the advance health care directive is required
27 pursuant to a lawful order of a court of competent jurisdiction,
28 requested by the registrant or the registrant's legal representative,
29 requested by the public guardian, or requested by a provider of
30 health care to the registrant only for the purpose of providing health
31 care to the registrant.

32 (3) The ~~Secretary of~~ *State Department of Public Health*
33 determines that providing access to the advance health care
34 directive is in the best interest of the registrant. However, a
35 registrant or legal representative of the registrant may access the
36 advance health care directive of the registrant for any purpose.

37 (b) The ~~Secretary of~~ *State Department of Public Health* shall
38 establish procedures to verify the identities of health care providers,
39 the public guardian, and other authorized persons requesting
40 information pursuant to Section 4800. No fee shall be charged to

1 any health care provider, the public guardian, or other authorized
2 person requesting information pursuant to Section 4800.

3 (c) A request for access pursuant to this part shall state the need
4 for the information.

5 (d) ~~The Secretary of State~~ *Department of Public Health* shall
6 respond by the close of business on the next business day to a
7 request for information made pursuant to Section 4717 by the
8 emergency department of a general acute care hospital when the
9 request is made by means other than through the ~~Secretary of~~
10 ~~State's~~ *State Department of Public Health's* Internet Web site.

11 (e) Information that may be released upon request shall not
12 include the registrant's social security number except when
13 necessary to verify the identity of the registrant.

14 (f) *The registry and the information it contains shall be the*
15 *property of the state and any disclosure of information in the*
16 *system shall be made in a manner consistent with the federal*
17 *Health Insurance Portability and Accountability Act of 1996*
18 *(Public Law 104-191).*

19 (g) *A health care provider who completes any health care*
20 *decision document with a patient or his or her legally recognized*
21 *health care decisionmaker shall include the document in the*
22 *patient's official medical record and submit a copy of the document*
23 *to the registry unless the patient or the decisionmaker chooses not*
24 *to participate in the registry.*

25 (h) *For the purposes of Section 4740, a health care decision or*
26 *advance health care directive obtained from the registry shall*
27 *include a physician order for life sustaining treatment form, a*
28 *durable power of attorney document, or any other legally*
29 *recognized and executed instrument for conveying a patient's*
30 *health care intentions.*

31 SEC. 3. Section 4801.5 is added to the Probate Code, to read:
32 4801.5. ~~The Secretary of State~~ *Department of Public Health*
33 shall establish procedures for all of the following:

34 (a) The registration of an advance health care directive or other
35 document described in Section 4800 that replaces an advance
36 health care directive or other document that is posted on the
37 registry.

38 (b) The removal from the registry of an advance health care
39 directive or other document described in Section 4800 that has

1 been revoked following the revocation of the advance health care
2 directive or other document or the death of the registrant.

3 (c) The issuance of a duplicate registration card or the provision
4 of other access to the registrant's registration number and password
5 if a registration card issued pursuant to this section is lost, stolen,
6 destroyed, or otherwise unavailable.

7 SEC. 4. Section 4802 of the Probate Code is amended to read:
8 4802. The ~~Secretary of State~~ *Department of Public Health* shall
9 establish procedures to advise each registrant of the following:

10 (a) A health care provider may not honor a written advance
11 health care directive until it receives a copy from the registrant or
12 accesses the advance health care directive from the registry.

13 (b) Each registrant must notify the registry upon revocation of
14 the advance health care directive.

15 (c) Each registrant must reregister upon execution of a
16 subsequent advance health care directive.

17 SEC. 5. Section 4806 of the Probate Code is amended to read:

18 4806. (a) The ~~Secretary of State~~ *Department of Public Health*
19 shall work with the ~~State Department of Public Health and the~~
20 ~~office~~ *Office* of the Attorney General to develop information about
21 end-of-life care, advance health care directives, and registration
22 of the advance health care directives at the registry established
23 pursuant to subdivision (a) of Section 4800. This information shall
24 be developed utilizing existing information developed by the office
25 of the Attorney General.

26 (b) Links to the information specified in subdivision (a) and to
27 the registry shall be available on the Internet Web sites of the
28 Secretary of State, the State Department of Public Health, the
29 Department of Motor Vehicles, the office of the Attorney General,
30 the Department of Managed Health Care, the Department of
31 Insurance, the Board of Registered Nursing, and the Medical Board
32 of California.

33 SEC. 6. Section 4807 is added to the Probate Code, to read:

34 4807. Commencing on January 1, 2016, the ~~Secretary of State~~
35 *Department of Public Health* shall, while establishing and
36 maintaining electronic access to the registry and to the extent
37 practicable, consult with any entity licensed pursuant to Division
38 2 (commencing with Section 1200) of the Health and Safety Code,
39 to integrate a process for retrieving documents and information

1 stored in the Advance Health Care Directive Registry from a
2 statewide health information exchange system.

3 *SEC. 7. Commencing on January 1, 2016, the Secretary of*
4 *State shall transfer all of the contents of its Advance Health Care*
5 *Directive's Registry to the State Department of Public Health. The*
6 *Advance Health Care Directives Registry shall be excluded from*
7 *the California Business Connect Project in the Office of the*
8 *Secretary of State.*

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